

Title	Juvenile Law: Miscellaneous Rules and Forms (amend Cal. Rules of Court, rules 1425 and 1426; revise Judicial Council forms JV-101, JV-450, JV-500, JV-501, and 982(a)(27); revise form FJ-200 and renumber as FL-935)
Summary	The proposed rule amendments and form revisions would make technical corrections, promote compliance with statutory mandates, and facilitate coordination of proceedings.
Source	Family and Juvenile Law Advisory Committee Hon. Michael Nash and Hon. Mary Ann Grilli, Co-chairs
Staff	Corby Sturges, 415-865-4220, corby.sturges@jud.ca.gov Christopher Wu, 415-865-7721, christopher.wu@jud.ca.gov
Discussion	<p>The committee proposes amending rule 1425 to clarify that when a court in one county transfers a dependency or delinquency case to a court in another county, the transferring court need only send certified copies of the transfer order and other required documents, not true originals. Another amendment would clarify that the residence of the person entitled to physical (not legal) custody determines a child's residence.</p> <p>An amendment to rule 1426 would require the receiving court, when notifying the child and parent or guardian of the transfer-in hearing, also to notify the transferring court of receipt of the order and case file. This amendment would avoid the issuance of superfluous orders by a court without jurisdiction and would impose little additional burden on the court.</p> <p>The committee proposes revising forms JV-101, <i>Additional Children Attachment</i>, JV-500, <i>Paternity Inquiry—Juvenile</i>, and JV-501, <i>Paternity—Finding and Judgment</i>, to eliminate references to presumed fathers. The committee proposes similar revisions to forms JV-100, <i>Juvenile Dependency Petition (Version One)</i>, JV-110, <i>Juvenile Dependency Petition (Version Two)</i>, and JV-600, <i>Juvenile Wardship Petition</i>, in a separate proposal relating to juvenile petitions and restraining orders.</p> <p>Section 361.5(a) of the Welfare and Institutions Code distinguishes between presumed fathers and biological fathers. It requires the court to provide reunification services to presumed fathers. For biological fathers, however, section 361.5(a) requires no services; it merely allows the court to provide them if the court determines that the</p>

services would benefit the child. Only a court may determine whether a man has attained presumed father status. Form JV-101, which is completed and filed by a social worker or probation officer, should not refer to this status. The revised form would ask only whether the purported father either is or was married to the mother or is alleged to be the father. The social worker or probation officer can determine this information without reaching any legal conclusions.

Revisions to the paternity inquiry and finding forms (JV-500 and JV-501) would clarify that these forms refer only to the biological father. Otherwise, a finding of paternity on form JV-501 might be incorrectly interpreted as a finding of presumed father status, entitling the father to services. Technical revisions to forms JV-500 and JV-501 would replace references to the district attorney with references to the local child support agency.

The committee proposes adding a clerk's certificate of authenticity to form JV-450, *Order for Prisoner's Appearance at Hearing Affecting Parental Rights and Waiver of Appearance*, to facilitate cooperation between the court and the prison officials involved in transferring a prisoner to court for a hearing affecting his or her parental rights.

The proposed revisions to form FJ-200, *Application and Order for Appointment of Guardian ad Litem of Minor—Family Law/Juvenile*, would eliminate a conflict between the form and the governing law. Since the enactment of Welfare and Institutions Code section 326.5 in 2000, that statute, as implemented by rules 1438 and 1448 of the California Rules of Court, has governed the appointment of guardians ad litem in juvenile dependency proceedings. Current form FJ-200, however, applies the standards for appointing a family law guardian ad litem to the appointment of a guardian ad litem in juvenile proceedings. The revisions would clarify that the form applies only to family law proceedings. The form would be renumbered as FL-935, and all references to juvenile proceedings would be deleted. The form would continue to apply to the appointment of a guardian ad litem for a child in all family law proceedings other than dissolution.

The revision and renumbering of form FJ-200 would also require correction of the cross-references in forms DE-350/GC-110, *Petition and Order for Appointment of Guardian ad Litem Under the Probate Code*, and 982(a)(27), *Application and Order for Appointment of Guardian ad Litem—Civil*. Revisions to form DE-350/GC-100, however, are addressed in a separate proposal from the Probate and

Mental Health Advisory Committee.

The relevant text of the proposed amended rules is attached at pages 4–7.

The proposed revised forms are attached at pages 8–16.

Attachments

Rules 1425 and 1426 of the California Rules of Court would be amended, effective January 1, 2004, to read:

Rule 1425. Transfer-out hearing

(a) [Determination of residence—special rule on intercounty transfers (§§ 375, 750)]

(1) For purposes of rules 1425 and 1426, the residence of the child ~~shall be~~ is the residence of the person who has the legal right to physical custody of the child according to prior court order, including

~~(1)(A)~~ A juvenile court order under ~~§~~ section 361.2 and

~~(2)(B)~~ An order appointing a guardian of the person of the child.

(2) If there is no order determining custody, ~~custody shall be with both~~ parents have custody.

(3) The juvenile court may make a finding of paternity under rule 1412. If there is no finding of paternity, ~~custody shall be with the mother~~ has custody.

(4) Residence of a ward may be with the person with whom the child resides with approval of the court.

(b) [Verification of residence] The residence of the person entitled to custody may be verified by ~~the~~ that person in court or by declaration ~~by~~ of a probation officer in the transferring or receiving county.

(c) [Transfer to county of child's residence (§§ 375, 750)]

(1) After making its jurisdictional finding, the court may order the case transferred to the juvenile court of the county of the child's residence ~~of the child~~ if:

~~(1)(A)~~ The petition was filed in a county other than that of the child's residence ~~of the child~~, or

~~(2)(B)~~ The child's residence ~~of the child~~ was changed to another county after the petition was filed.

- 1 (2) ~~If the court decides to transfer the a delinquency case, the court shall must~~
2 order the transfer before beginning the section 602 disposition hearing
3 without adjudging the child to be a ward.
- 4
- 5 (3) ~~If the court decides to transfer a dependency case, the The court may~~
6 order the transfer before or after the section 300 disposition hearing.
- 7
- 8 (d) **[Transfer on subsequent change in child's residence (§§ 375, 750)]** If, after
9 the child has been placed under a program of supervision, the residence is
10 changed to another county, the court may, upon an application for modification
11 under rule 1432, transfer the case to the juvenile court of the other county.
- 12
- 13 (e) **[Conduct of hearing]** After the court determines the identity and residence of
14 the child's custodian, the court ~~shall must~~ consider whether transfer of the case
15 would be in the child's best interests. The court ~~shall may~~ not transfer the case
16 unless it determines that the transfer will protect or further the child's best
17 interests.
- 18
- 19 (f) **[Order of transfer (§§ 377, 752)]** The order of transfer ~~shall must~~ be entered
20 on Judicial Council form *Juvenile Court Transfer Orders* (JV-550), which
21 ~~shall must~~ include all required information and findings.
- 22
- 23 (g) **[Transport of child and transmittal of documents (§§ 377, 752)]**
- 24
- 25 (1) ~~If the child is ordered transported to the receiving county in custody, the~~
26 child ~~shall must~~ be delivered to the receiving county within seven court
27 days, and the clerk of the court of the transferring county ~~shall must~~
28 prepare certified copies of all papers contained in the files so that they
29 may be transported with the child to the court of the receiving county.
- 30
- 31 (2) ~~If the child is not ordered transported in custody, the clerk of the~~
32 transferring court ~~shall must~~ transmit to the clerk of the court of the
33 receiving county within 10 court days certified copies of all papers
34 contained in the files. Certified copies ~~shall be are~~ deemed originals.
- 35
- 36 (h) **[Appeal of transfer order (§§ 379, 754)]** The order of transfer may be
37 appealed by the transferring or receiving county and notice of appeal ~~shall~~
38 must be filed in the transferring county, under rule 39. Notwithstanding the
39 filing of a notice of appeal, the receiving county ~~shall must~~ assume jurisdiction
40 of the case on receipt and filing of the order of transfer.
- 41

42 **Rule 1426. Transfer-in hearing**

43

1 **(a) [Procedure on transfer (§§ 378, 753)]**
2

3 (1) ~~On receipt and filing of an order of transfer~~ a certified copy of a transfer
4 order, the receiving court ~~shall~~ must take jurisdiction of the case. The
5 receiving court may not reject the case. The clerk of the receiving court
6 ~~shall~~ must immediately place the transferred case on the court calendar
7 for a transfer-in hearing by the court:
8

9 ~~(1)(A)~~ Within two court days after the transfer-out order and
10 documents are received if the child has been transported in custody
11 and remains detained or
12

13 ~~(2)(B)~~ Within 10 court days after the transfer-out order and
14 documents are received if the child is not detained in custody.
15

16 (2) ~~Requests~~ No requests for additional time for the transfer-in hearing ~~shall~~
17 ~~be denied~~ may be approved. The clerk ~~shall~~ must immediately cause
18 notice to be given to the child and the parent or guardian, orally or in
19 writing, of the time and place of the transfer-in hearing. The receiving
20 county must notify the transferring county upon receipt and filing of a
21 certified copy of the transfer order and all accompanying papers in the
22 file.
23

24 **(b) [Conduct of hearing]** At the transfer-in hearing, the court ~~shall~~ must:
25

- 26 (1) Advise the child and the parent or guardian of the purpose and scope of
27 the hearing;
28
29 (2) Provide for the appointment of counsel if appropriate; and
30
31 (3) If the child was transferred to the county in custody, determine whether
32 the child shall be further detained ~~pursuant to~~ under rule 1440 or 1470.
33

34 **(c) [Subsequent proceedings]** The proceedings in the receiving court ~~shall~~ must
35 commence at the same phase as when the case was transferred. The court may
36 continue the hearing for an investigation and report to a date not to exceed 10
37 court days if the child is in custody or 15 court days if the child is not detained
38 in custody.
39

40 **(d) [Limitation on more restrictive custody (§§ 387, 777)]** If a disposition order
41 has already been made in the transferring county, a more restrictive level of
42 physical custody ~~shall~~ may not be ordered in the receiving county except after
43 a hearing upon a supplemental petition under rule 1431.

- 1
2 (e) **[Setting six-month review (§ 366)]** When an order of transfer is received and
3 filed relating to a child who has been declared a dependent, the court ~~shall~~
4 must set a date for a six-month review within six months of the disposition or
5 the most recent review hearing.
6
7 (f) **[Change of circumstances or additional facts]** If the receiving court believes
8 that a change of circumstances or additional facts indicates that the child does
9 not reside in the receiving county, a transfer-out hearing ~~shall~~ must be held
10 under rules 1425 and 1432. The court may direct the department of social
11 services or the probation department to seek a modification of orders under
12 section 388 or 778 and under rule 1432.
13

NOTE: This form is for use in civil proceedings in which a party is a minor, an incapacitated person, or a person for whom a conservator has been appointed. A party who seeks the appointment of a guardian ad litem in a family law proceeding should use Form FL-935. A party who seeks the appointment of a guardian ad litem in a probate proceeding should use Form DE-350/GC-100. An individual may not act as a guardian ad litem unless he or she is represented by an attorney or is an attorney.

1. Applicant (*name*): is
 - a. ☐ the parent of (*name*):
 - b. ☐ the guardian of (*name*):
 - c. ☐ the conservator of (*name*):
 - d. ☐ a party to the suit.
 - e. ☐ the minor to be represented (*if the minor is 14 years of age or older*).
 - f. ☐ another interested person (*specify capacity*):
2. This application seeks the appointment of the following person as guardian ad litem (*state name, address, and telephone number*):
3. The guardian ad litem is to represent the interests of the following person (*state name, address, and telephone number*):
4. The person to be represented is:
 - a. ☐ a minor (*date of birth*):
 - b. ☐ an incompetent person.
 - c. ☐ a person for whom a conservator has been appointed.
5. The court should appoint a guardian ad litem because:
 - a. ☐ the person named in item 3 has a cause or causes of action on which suit should be brought (*describe*):

☐ Continued on Attachment 5a.

(Continued on reverse)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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5. b. ☐ more than 10 days have elapsed since the summons in the above-entitled matter was served on the person named in item 3, and no application for the appointment of a guardian ad litem has been made by the person identified in item 3 or any other person.
- c. ☐ the person named in item 3 has no guardian or conservator of his or her estate.
- d. ☐ the appointment of a guardian ad litem is necessary for the following reasons (*specify*):

☐ Continued on Attachment 5d.

6. The proposed guardian ad litem's relationship to the person he or she will be representing is:
- a. ☐ related (*state relationship*):
- b. ☐ not related (*specify capacity*):
7. The proposed guardian ad litem is fully competent and qualified to understand and protect the rights of the person he or she will represent and has no interests adverse to the interests of that person. (*If there are any issues of competency or qualification or any possible adverse interests, describe and explain why the proposed guardian should nevertheless be appointed*):

☐ Continued on Attachment 7.

(TYPE OR PRINT NAME)		(SIGNATURE OF ATTORNEY)
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF APPLICANT)
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CONSENT TO ACT AS GUARDIAN AD LITEM

I consent to the appointment as guardian ad litem under the above petition.
Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF PROPOSED GUARDIAN AD LITEM)
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ORDER ☐ **EX PARTE**

THE COURT FINDS that it is reasonable and necessary to appoint a guardian ad litem for the person named in item 3 of the application, as requested.

THE COURT ORDERS that (*name*):
is hereby appointed as the guardian ad litem for (*name*):
for the reasons set forth in item 5 of the application.
Date:

JUDICIAL OFFICER	<input type="checkbox"/> SIGNATURE FOLLOWS LAST ATTACHMENT
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(FAX):

- | 2. | <u>Child's name</u> | <u>Age</u> | <u>Date of birth</u> | <u>Sex</u> |
|----|---------------------|------------|----------------------|------------|
| | | | | |

Date: _____

JUDICIAL OFFICER OF THE JUVENILE COURT

3. The following information is available:

No order
determining
paternity

☐ Certified copies of court orders attached.

4. ☐ Paternity was established by voluntary declaration on (date):

Date: _____

Local child support agency staff _____
(title)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i>		FOR COURT USE ONLY
TELEPHONE NO.: FAX NO.: ATTORNEY FOR <i>(Name)</i> :		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
ORDER FOR PRISONER'S APPEARANCE AT HEARING AFFECTING PRISONER'S PARENTAL RIGHTS <input type="checkbox"/> Waiver of Appearance		CASE NUMBER:

1. A HEARING regarding the custody of the following children (*names*):

will be held

on <i>(date)</i> :	at <i>(time)</i> :	in Dept.:	Room:
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located at ☐ court address above ☐ other (specify address):

2. The hearing will be held under:
- a. ☐ **Family Code section 7800 et seq.** (to terminate parental rights)
 - b. ☐ **Welfare and Institutions Code section 300** (to declare the child a dependent of the court)
 - c. ☐ **Welfare and Institutions Code section 366.26** to
 - (1) ☐ Terminate parental rights
 - (2) ☐ Appoint a legal guardian
 - (3) ☐ Order the child into long-term foster care
 - d. ☐ Other (*specify*):

- 3. To the Warden or Director of (name of institution):**

You are ordered to deliver prisoner (*name and identification number*):

who is a party, into the custody of (name): _____ so the prisoner may be transported to this court for the hearing unless the prisoner executes the attached waiver or refuses to be transported. The sheriff is ordered to return the prisoner to _____ when his or her appearance is no longer necessary.

Date:

JUDGE / REFEREE / COMMISSIONER

4. ☐ The *Waiver of Right to be Present at Hearing* on reverse is completed (item 7).
5. ☐ The *Declaration of Translation* on reverse is completed (item 8).
6. ☐ The *Declaration That Prisoner Does Not Wish to Attend Hearing* on reverse is completed (item 9).

CASE NAME: _____	CASE NUMBER: _____
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☐ **WAIVER OF RIGHT TO BE PRESENT AT HEARING AFFECTING PRISONER'S PARENTAL RIGHTS**

7. I HEREBY WAIVE MY RIGHT TO ATTEND THE HEARING.

- a. ☐ I authorize my attorney of record to represent me at the hearing.
b. ☐ I request that an attorney be appointed to represent me and to appear for me at the hearing.
c. ☐ I waive my right to be represented by an attorney.

Date: _____

(TYPE OR PRINT NAME)	(SIGNATURE OF PARENT)
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☐ **Declaration of Translation**

(To be completed if prisoner does not understand English sufficiently to read this form.)

8. a. The prisoner's primary language is ☐ Spanish ☐ other (*specify*): _____
b. I certify that I translated this form to the prisoner in the prisoner's primary language to the best of my ability.

Date: _____

(TYPE OR PRINT NAME)	(SIGNATURE OF PERSON TRANSLATING)
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☐ **Declaration That Prisoner Does Not Wish to Attend Hearing**

9. The prisoner (*name*): _____ has stated to me, or by conduct indicated to me, that he or she does not wish to attend the hearing in this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)	(SIGNATURE)
(TITLE OF PRISON OFFICIAL)	

CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: _____ Clerk, by _____, Deputy

[SEAL]

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>) or GOVERNMENTAL AGENCY:	FOR COURT USE ONLY
TELEPHONE NO. (<i>Optional</i>): FAX NO. (<i>Optional</i>): E-MAIL ADDRESS (<i>Optional</i>): ATTORNEY FOR (<i>Name</i>):	DRAFT 2 3/03/03
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
PETITIONER: RESPONDENT: OTHER PARENT:	
APPLICATION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM OF MINOR—FAMILY LAW <input type="checkbox"/> EX PARTE	CASE NUMBERS:
NOTE: This form is for use in family law proceedings with the exception of dissolution proceedings. For appointment of a guardian ad litem in civil proceedings, use Form 982(a)(27). For appointment of a guardian ad litem in probate proceedings, use Form DE-350/GC-100.	

1. I (*name*): _____ am the
- a. ☐ attorney for:
- (1) ☐ the minor.
- (2) ☐ parent of the minor.
- (3) ☐ other interested person (*specify name and relationship*):
- b. ☐ parent of the minor.
- c. ☐ other interested person.
- d. ☐ minor (*answer all that apply to you*):
- (1) My date of birth is (*specify*):
- (2) I live with my ☐ mother ☐ father ☐ legal guardian ☐ other (*specify name and relationship*):
- (3) My mother's name is (*specify*): _____, and her address is:
- (4) My father's name is (*specify*): _____, and his address is:
- (5) ☐ I have a legal guardian. My legal guardian's name is (*specify*): _____, and his
or her address is:
- The guardianship was established in: _____ County, case no. (*if known*):
2. I ask the court to appoint the following person as guardian ad litem for the minor (*state name, address, and telephone no.*):
3. The relationship of the person listed in item 2 to the minor is
- a. ☐ parent
- b. ☐ other (*specify*):
4. Appointment of a guardian ad litem is necessary because (*specify*):


☐ Attachment 4 (*Describe in detail, attach additional pages if necessary*).

(Continued on reverse)

CHILD'S NAME: PETITIONER: RESPONDENT: OTHER PARENT:	CASE NUMBERS:
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5. The proposed guardian ad litem is fully competent to understand and protect the rights of the minor and has no interest conflicting with that of the minor.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF APPLICANT)
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CONSENT TO ACT AS GUARDIAN AD LITEM

I consent to the appointment as guardian ad litem, and agree to assume the responsibilities.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF PROPOSED GUARDIAN)
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CONSENT TO GUARDIAN BY MINOR 14 YEARS OF AGE OR OLDER

I, *(name)*: _____, am *(specify age)*: _____ years of age and hereby nominate
(name): _____ to be my guardian ad litem to represent my interests for the
reasons set forth in items 4 and 5 of this application.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF PETITIONER)
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ORDER

THE COURT FINDS

It is reasonable and necessary to appoint a guardian ad litem for the person(s) named in the application, as requested above.

THE COURT ORDERS that *(name)*: _____ is hereby appointed guardian ad
litem of *(name)*: _____ for the purposes hereinabove set
forth in item 4 of the petition.

Application for an Appointment of Guardian ad Litem filed *(date)*:

- a. ☐ is denied.
- b. ☐ is granted.
- c. ☐ is set for hearing on *(date)*: .

at *(time)*:

Date:

_____ JUDICIAL OFFICER	<input type="checkbox"/> SIGNATURE FOLLOWS LAST ATTACHMENT
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ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):		TELEPHONE NO.:	FOR COURT USE ONLY <div style="text-align: center; font-size: 2em; font-weight: bold;">DRAFT 1</div> <div style="text-align: center; font-size: 2em; font-weight: bold;">2/24/03</div>
ATTORNEY FOR (<i>Name</i>):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
CASE NAME:			
PATERNITY—FINDING AND JUDGMENT (Juvenile Dependency)		CASE NUMBER:	

1. (*Name*): _____ is declared to be the biological father of (*list names and dates of birth of all children*):

Child's name

Date of birth

and a Judgment is hereby entered.

Date:

.....
(TYPE OR PRINT NAME)

JUDICIAL OFFICER OF THE JUVENILE COURT

2. A copy of this order has been transmitted to the local child support agency, on this date by:

- ☐ First-class mail
☐ County mail or courier
☐ FAX

Date:

Clerk, by _____, Deputy